

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINTS,
ARREST WARRANTS AND SEARCH WARRANTS

I, David A. Gorr, being duly sworn on oath, state as follows:

I. Background.

1. I am a Special Agent with the Federal Bureau of Investigation (FBI), and I have been so employed for over twenty (20) years. I have been assigned to the Kenosha Resident Agency. As part of my duties, I investigate a wide variety of violations of federal criminal laws, including violations of the Sherman Act, 15 U.S.C. § 1 (conspiracy to rig bids and fix prices), and 18 U.S.C. § 1343 (wire fraud).

II. Purpose of the Affidavit.

2. I submit this affidavit in support of criminal complaints and arrest warrants for the following individuals:

- a. JAMES J. MAPLES (d/o/b June 10, 1930), President of VINTON CONSTRUCTION COMPANY, 2705 N. Rapids Road, Manitowoc, Wisconsin;
- b. MICHAEL J. MAPLES (d/o/b July 21, 1952), Vice President of VINTON CONSTRUCTION COMPANY;
- c. ERNEST J. STREU a/k/a E. J. STREU (d/o/b November 5, 1948), President of STREU CONSTRUCTION COMPANY, 3612 Lincoln Avenue, Two Rivers, Wisconsin; and
- d. JOHN STREU (d/o/b September 2, 1956), Secretary / Treasurer of STREU CONSTRUCTION COMPANY.

3. I also submit this affidavit in support of search warrants for the following locations:

- a. VINTON CONSTRUCTION COMPANY, 2705 N. Rapids Road, Manitowoc, Wisconsin 54220-1110;
- b. STREU CONSTRUCTION COMPANY, 3612 Lincoln Avenue, Two Rivers, Wisconsin 54241-1830; and

- c. RESIDENCE OF JAMES J. MAPLES, 1248 Fleetwood Drive, Manitowoc, Wisconsin 54220-2316.

III. Basis for Facts Establishing Probable Cause.

4. Because this affidavit is submitted for the limited purpose of securing criminal complaints and arrest warrants for the individuals listed in paragraph 2, and search warrants for the locations listed in paragraph 3, I have not set forth every fact known to me regarding this investigation. Rather, I have set forth those facts which I believe support a finding of probable cause. I also have set forth any exculpatory information of which I have knowledge.

5. The information contained in this affidavit is based upon my personal knowledge and investigation, my review of various documents and records (including consensually recorded conversations), as well as information supplied to me by other Special Agents of the FBI and of the United States Department of Transportation – Office of Inspector General, all of whom I believe to be truthful and reliable. The information in this affidavit also is based in part on information provided by a cooperating witness (“CW”). The credibility of the CW is addressed separately in this affidavit. Everything set forth in this affidavit is true to the best of my knowledge and belief.

IV. Facts Establishing Probable Cause.

6. Since March 2003, I have been investigating an alleged conspiracy to rig bids and wire fraud scheme. Specifically, I have been investigating allegations that the principals and employees of various road construction contractors have been conspiring and scheming to defraud the State of Wisconsin and others by submitting non-competitive or “rigged” bids with respect to public road, highway, bridge, street and airport construction projects (hereinafter “highway construction projects”), the vast majority of which are also federally funded. I have

also been investigating allegations that the same individuals have also been conspiring to rig certain private construction contracts, including contracts for the construction of buildings.

7. To date, the investigation has revealed that the following individuals, among others, have participated in the bid rigging conspiracy and wire fraud scheme: JAMES J. MAPLES and MICHAEL J. MAPLES of VINTON CONSTRUCTION COMPANY and E.J. STREU and JOHN STREU of STREU CONSTRUCTION COMPANY. The investigation has revealed that, at a minimum, these individuals conspired to rig bids and share information with respect to over thirty (30) publicly-funded construction projects, having a total value of well in excess of \$100 million. The investigation has revealed that the projects were located in at least twelve (12) Wisconsin counties.

A. The bid-letting process.

8. At all times relevant to this investigation, the State of Wisconsin, Department of Transportation (“WisDOT”) administered the bid letting process for federally- and state-funded highway construction projects in the state of Wisconsin. Federal and Wisconsin state bidding regulations require that competitive bids be submitted on highway construction projects. The State of Wisconsin further requires that each bidder file a sworn statement with each bid it submits certifying the bidder has not participated in any collusion or taken any action in restraint of free competitive bidding.

9. As part of the bid letting process, on at least an annual basis, WisDOT publishes a Master Contract Schedule. The Master Contract Schedule is designed to provide contractors with WisDOT’s best estimate of when projects will be ready for awarding or “letting.” Among other things, for each project, the Master Contract Schedule lists the type of construction, the

anticipated letting date, and the scheduled construction dates.

10. WisDOT generally holds bid lettings for highway construction projects at 9 a.m. on the second Tuesday of each month. Approximately five (5) weeks before each letting date, WisDOT advertises the specific projects which are scheduled to be awarded. As part of this process, WisDOT makes available proposals, plans, and specifications for each project.

11. Before late 2002, WisDOT held its bid lettings at the Concourse Hotel in Madison, Wisconsin. Typically, contractors would arrive at the Concourse Hotel well in advance of the actual letting deadline to finish and submit their bids before the 9 a.m. deadline.

12. Beginning by December 2002, WisDOT began using an internet-based service to handle the letting process for highway construction projects. Specifically, WisDOT contracted with Info Tech, Inc., a company based in Gainesville, Florida, to publish bidding information and receive bids in electronic format through a service known as the “Bid Express on-line bidding exchange.”

13. To use Bid Express, contractors must register with Info Tech and obtain a “digital ID.” By registering with Info Tech, contractors obtain on-line access to www.bidx.com, a website which provides WisDOT’s letting schedules, bid proposals, addenda, notices to contractors, and other bid information.

14. To submit bids to WisDOT using Bid Express, contractors download the schedule of items and addenda for a particular project through www.bidx.com. Using specialized software available from Info Tech, contractors complete their bids by entering unit prices for each of the scheduled items listed in a given WisDOT proposal. The contractors then “sign” their bids by using their digital ID and submit their bids, in encrypted electronic format, via www.bidx.com to

Info Tech's headquarters in Florida.

15. On each letting date, as soon as the 9 a.m. deadline for the submission of bids has passed, Info Tech assembles the submitted bids and transmits them, in electronic format, from Florida to WisDOT's computer system in Wisconsin. WisDOT then opens the bids in Madison, Wisconsin, and publishes the results.

16. When submitting any bid to WisDOT, each bidder also must file a sworn "Affidavit of Non-Collusion." This document contains a certification that the bidding entity, has not "either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action, in restraint of free competitive bidding in connection with the submitted bid." If a bidder fails to submit an affidavit of non-collusion, WisDOT automatically rejects the bid in question.

17. Before WisDOT began using the Bid Express on-line bidding exchange, bidders submitted affidavits of non-collusion in hard copy format. Since at least December 2002, bidders submit their affidavits in electronic format when transmitting their bids to Info Tech.

B. General workings of the bid rigging conspiracy and wire fraud scheme.

18. To date, the investigation has revealed that the conspiracy to rig bids and the wire fraud scheme generally worked as follows. As part of a bid rigging conspiracy and scheme to defraud, between approximately late 1996 or early 1997 and continuing until January 2004, JAMES J. MAPLES and MICHAEL J. MAPLES of VINTON CONSTRUCTION COMPANY, E.J. STREU and JOHN STREU of STREU CONSTRUCTION COMPANY, and others would meet to discuss upcoming highway construction projects. During telephone calls and in-person meetings, these individuals and others would share bid information, discuss potential

competitors, and agree to rig bids in an attempt to allocate projects among themselves.

19. The investigation has revealed that approximately twice per year, the conspirators would meet in person to generally discuss and agree on the allocation of projects listed on WisDOT's Master Contract Schedule among the conspirators. In advance of and on specific letting dates, the conspirators then would contact one another by telephone, share proprietary bid information, confirm the agreement as to specific rigged bids being submitted by one another, and submit their non-competitive bids. Since late 2002, this included the submission of rigged bids in electronic format through interstate wire communications from the Eastern District of Wisconsin to Florida. After the bid results were published, the conspirators typically would contact one another to discuss whether their bid rigging agreement had resulted in the successful allocation of projects among themselves.

C. Initial investigation of the bid rigging conspiracy and wire fraud scheme.

20. As mentioned above, this affidavit is based in part on information provided by a Cooperating Witness (CW). At all times relevant to this affidavit, the CW, who is in a position to testify, was an employee of another road construction contractor. The CW's employer is a competitor of VINTON CONSTRUCTION COMPANY and STREU CONSTRUCTION COMPANY and regularly submits bids to WisDOT with respect to highway construction projects. As part of the CW's job duties, the CW was involved in preparing estimates for bids submitted to WisDOT.

21. In March 2003, before the CW was known to law enforcement, the CW's employer contacted the United States Attorney's Office for the Eastern District of Wisconsin. The employer reported that the CW appeared to be sharing the employer's proprietary bidding

information with competitors in advance of WisDOT bid lettings.

22. I and other FBI agents then interviewed some of the CW's coworkers who had reported their observations to their employer. One of the CW's coworkers, a fellow project manager, explained that beginning in approximately December 2001, the CW began asking him for information on bids the coworker was preparing. Specifically, just before the 9 a.m. letting deadline, the CW approached him in the employer's suite at the Concourse Hotel and asked for the coworker's "numbers on pavement and mobilization" for a particular highway project. The coworker reported that the CW similarly asked him for such numbers with respect to bids let at the Concourse Hotel in January and March 2002. The coworker noted that for each of these projects, all of the paving work seemed to be going to STREU CONSTRUCTION COMPANY.

23. The above coworker reported that after WisDOT began using an on-line bidding process in approximately December 2002, his employer began finalizing bids in a conference room at the employer's headquarters rather than at the Concourse Hotel. Typically, beginning early in the morning on each letting date, as the "crunch time" for finalizing bids approached, individuals involved in preparing specific bids would gather in the conference room. During this process, the bid numbers for various projects would be projected onto the conference room's walls so that everyone involved in a specific bid would be working with the same numbers.

24. The coworker reported that when his employer began submitting bids from its home office, he noticed the CW spending "a lot of time" from 7 a.m. on each letting date watching the projected totals for projects the CW was not involved with. Without explanation, the CW would then leave the conference room at crucial times, often just before 9 a.m., and "disappear."

25. In early 2003, because the coworker suspected the CW was passing bid information to

competitors, the coworker began following the CW when the CW would leave the conference room on letting dates. On approximately 10 occasions between January 2003 and March 2003, the coworker saw the CW leave the conference room just before a letting deadline, go up a flight of stairs, enter a separate conference room, and close the door. On one occasion, the coworker overheard the CW state the word “mobe” (believed to be short for “mobilization”) and a dollar amount.

26. The coworker also reported that during a letting in early 2003, the coworker attempted to determine whether the CW was in fact colluding with his employer’s competitors by providing the CW with inflated (false) numbers. The coworker then submitted a bid using lower numbers, and his employer was the successful bidder.

27. After interviewing the above coworker, I interviewed another project manager for the CW’s employer. This individual confirmed that the CW had asked him for numbers on various projects. This individual also reported that on a recent occasion when the CW had asked for numbers, STREU CONSTRUCTION COMPANY wound up winning these projects by a relatively small margin.

28. In addition to the above interviews, I contacted one of the officers of the CW’s employer. This individual provided me with telephone records indicating that at 11:13 p.m. on the night before a January 14, 2003 WisDOT bid letting, someone had used the employer’s fax machine to contact a number which the officer reported was a fax number for Streu Construction. In addition, when reviewing public information with respect to the January 14, 2003 letting, I learned that STREU CONSTRUCTION COMPANY was the lowest bidder with respect to both projects for which the CW’s employer had submitted bids. STREU

CONSTRUCTION COMPANY'S bids for these two projects totaled \$10,642,314.

D. Review of telephone and bid records.

29. As part of my investigation, I also reviewed telephone and bidding records. My review of records from Nextel and other telephone companies during early 2003 revealed that immediately before WisDOT lettings involving projects for which the CW's employer had submitted bids, the CW was contacting both VINTON CONSTRUCTION COMPANY and STREU CONSTRUCTION COMPANY.

30. For example, one of the monthly WisDOT lettings occurred on February 11, 2003. My review of telephone records revealed that the CW's employer-issued Nextel cellular phone was used to place an 11-minute call to STREU CONSTRUCTION COMPANY on February 3, 2003. Between February 3, 2003, and February 10, 2003, the CW's cellular phone and/or apartment phone were used to contact VINTON CONSTRUCTION COMPANY six (6) times. At 11:29 am, on February 11, 2003, after the deadline for submitting bids for that letting had passed, the CW's phone again called VINTON CONSTRUCTION COMPANY.

31. My review of bidding records show that the CW's employer bid on three projects during the February 11, 2003 letting. For each such project, VINTON CONSTRUCTION COMPANY'S bids (which totaled over \$2.8 million) were the lowest, and STREU CONSTRUCTION COMPANY'S bids were the second-lowest. My review of public bidding records revealed that with respect to this WisDOT letting, VINTON CONSTRUCTION COMPANY and STREU CONSTRUCTION COMPANY each (separately) used Bid Express to transmit their bids, in electronic format and via interstate wire communication, from their respective offices in the Eastern District of Wisconsin to Florida.

32. My review of telephone and bidding records also revealed that in the two weeks proceeding the letting of a municipal (non-WisDOT) bid won by VINTON CONSTRUCTION COMPANY on February 25, 2003, the CW's phone called VINTON CONSTRUCTION COMPANY on one occasion and STREU CONSTRUCTION COMPANY six (6) times. One call to STREU CONSTRUCTION COMPANY was a 9-minute call placed at 2:41 a.m. on the morning of the bid.

33. Another monthly WisDOT letting occurred on March 11, 2003. During this letting, the CW's employer bid on a total of four (4) projects. With respect to each project, either VINTON CONSTRUCTION COMPANY or STREU CONSTRUCTION COMPANY underbid the CW's employer. For example, with respect to a paving project involving State Highway 57 in Ozaukee County, VINTON CONSTRUCTION COMPANY bid \$3,639,916. This was less than \$10,000 under the bid submitted by the CW's employer. With respect to three of these projects, either VINTON CONSTRUCTION COMPANY or STREU CONSTRUCTION COMPANY was the successful bidder. As a result of this letting, STREU CONSTRUCTION COMPANY was awarded projects totaling over \$17.5 million, and VINTON CONSTRUCTION COMPANY was awarded projects totaling over \$2.8 million. My review of public bidding records revealed that with respect to this WisDOT letting, VINTON CONSTRUCTION COMPANY and STREU CONSTRUCTION COMPANY each (separately) used Bid Express to transmit their bids, in electronic format and via interstate wire communication, from their respective offices in the Eastern District of Wisconsin to Florida.

34. My review of telephone records revealed that between February 27, 2003, and March 7, 2003, the CW placed 8 calls to VINTON CONSTRUCTION COMPANY and another 3 calls to

STREU CONSTRUCTION COMPANY.

35. In addition, on the morning of the March 11, 2003 bid letting, the CW used the CW's Nextel phone's "push-to-talk" / "direct connect" feature to contact private numbers assigned to VINTON CONSTRUCTION COMPANY 3 times before the 9 a.m. deadline. These include contacts with VINTON CONSTRUCTION COMPANY at 8:38 a.m. and 8:59 a.m.

36. In addition to contacting VINTON CONSTRUCTION COMPANY just before the March 11, 2003 letting deadline, the CW also used the CW's Nextel phone's push-to-talk feature to contact private numbers assigned to STREU CONSTRUCTION COMPANY 5 times between 6:06 a.m. and 8:59 a.m.

37. On March 11, 2003, after the letting deadline, the CW's cell phone placed a 9-minute call to STREU CONSTRUCTION COMPANY and a 7-minute call to VINTON CONSTRUCTION COMPANY.

E. The April 8, 2003 WisDOT letting.

38. Another monthly WisDOT letting occurred on April 8, 2003. In connection with this letting, I arranged for FBI Special Agent James Dawson to be present, in an undercover capacity, at the CW's employer during the bid finalization process. In addition, I arranged for other employees to occupy the conference room reportedly used by the CW to contact competitors before the 9 a.m. letting deadline. I also arranged for the CW's coworker to pass inflated (false) numbers to the CW with respect to one project. Specifically, regarding a paving project involving County Highway EA in Brown County, the CW's coworker passed numbers to the CW which were \$212,775 higher than the CW's employer's actual bid.

39. Just before 8:30 a.m., the CW left the main conference room being used to prepare the

bids to be submitted to WisDOT that morning. The CW went upstairs as predicted by the CW's coworkers. Upon finding the smaller conference room typically used by the CW to be occupied, the CW walked down the hall to another room and closed the door. At approximately 8:30 a.m., S/A Dawson saw the CW enter this room and shut the door.

40. Based on a review of Nextel records, at approximately 8:36, the push-to-talk feature of the CW's Nextel phone was used to contact a private push-to-talk number assigned to VINTON CONSTRUCTION COMPANY.

41. Before the CW returned to the main conference room, the CW's coworkers submitted bids for three projects on which the CW's employer was submitting bids. With respect to the Brown County paving project described above, the numbers submitted were the employer's actual numbers rather than the inflated numbers that I arranged for the coworker to give to the CW. On another project, namely a paving project involving State Highway 110 and U.S. Highway 41 in Winnebago County, the CW's coworkers found additional savings after the CW had left the room, lowered the bid numbers and then submitted the bid containing those lower numbers.

42. According to the bidding records, the CW's employer submitted the winning (lowest) bid with respect to each of these projects. With respect to the paving project in Brown County, the CW's employer submitted a winning bid of \$1,302,958. VINTON CONSTRUCTION COMPANY'S bid of \$1,323,539 was the second-lowest. With respect to the paving project in Winnebago County, the CW's employer submitted a successful bid of \$2,129,033. VINTON CONSTRUCTION COMPANY'S bid on the same project was \$2,336,121. Finally, with respect to a paving project involving State Highway 28 in Sheboygan County, the CW's employer

submitted a successful bid of \$4,075,237. VINTON CONSTRUCTION COMPANY'S bid on the same project was \$4,111,648. My review of public bidding records revealed that with respect to this WisDOT letting, VINTON CONSTRUCTION COMPANY used Bid Express to transmit its bids, in electronic format and via interstate wire communication, from the Eastern District of Wisconsin to Florida.

43. According to the CW's coworkers, when WisDOT announced that the winning bids for the April 8, 2003 letting, the CW seemed surprised and upset – rather than happy – that the CW's employer was the winning bidder.

F. Confrontation of the CW.

44. In September 2003, S/A Dawson and I confronted the CW regarding the CW's suspected activities. During a September 12, 2003 interview, the CW admitted to being a member of an ongoing conspiracy to submit rigged bids with respect to highway construction projects let by WisDOT and other bidding authorities, including municipalities in Wisconsin. The CW provided extensive information regarding the formation and history of the conspiracy. The CW also identified 26 specific projects, with a value of approximately \$70 million, let between January 2002 and April 2003 that had been the subject of collusion. Furthermore, he identified various other projects let before January 2002 that had also been the subject of collusion. The CW also described the participation of others in the conspiracy, including JAMES J. MAPLES, MICHAEL J. MAPLES, E.J. STREU, and JOHN STREU.

1. Reliability of the CW's information.

45. Before summarizing a portion of the information provided by the CW, a brief discussion of the reliability of the information is necessary. In that regard, the information provided by the

CW is believed to be reliable for the following three main reasons. First, law enforcement has corroborated much of the information through independent investigation of the CW's prior actions. As was described, surveillance, interviews of the CW's coworkers, and a review of bidding and telephone information corroborate the CW's description of contacts with STREU CONSTRUCTION COMPANY and VINTON CONSTRUCTION COMPANY and the CW's statements regarding his own activities.

46. Second, the CW provided information against the CW's interests. In that regard, the CW provided information which the CW knew could subject the CW to criminal liability, including possible prosecution by the Antitrust Division of United States Department of Justice and/or the United States Attorney's Office. The CW is not a paid informant and has no agreements with any federal agency relating to his cooperation in this investigation or possible prosecution by federal authorities.

47. Third, much of the CW's information has been verified by recorded conversations. Specifically, while working under my direction and control between September 2003 and the present, the CW has engaged in consensually monitored and recorded conversations with JAMES J. MAPLES and MICHAEL J. MAPLES of VINTON CONSTRUCTION COMPANY and E.J. STREU and JOHN STREU of STREU CONSTRUCTION COMPANY. These conversations have corroborated the CW's statements and established the reliability of the CW.

2. Information provided by the CW.

48. According to the CW, the conspiracy started when JOHN STREU, of STREU CONSTRUCTION COMPANY, approached the CW after a pre-bid meeting concerning a job at the Appleton (Outagamie County) Airport in late 1996 or early 1997. JOHN STREU indicated

that his company was not interested in the job and that the CW could have it. The CW understood that this offer came with the condition that the CW agree to discuss other bids in the future so that they could be split up amongst the companies.

49. According to the CW, the following year (1997-1998) the CW, JOHN STREU, E.J. STREU, and JAMES J. MAPLES met at the Sheboygan McDonalds, located off of Highway 28. They got into one car and rode around for approximately one to one and a half hours discussing upcoming projects for the following year.

50. According to the CW, this meeting was the first of what became twice a year occurrences. Participants in the meetings generally included the CW, JOHN STREU, E.J. STREU, JAMES J. MAPLES, and MICHAEL J. MAPLES.

51. According to the CW, during these ride-around meetings, the participants discussed upcoming projects to be let by the State of Wisconsin and other public and private bidding authorities. They expressed their interests in the projects, discussed who else might be bidding on them, shared information about each company's costs and agreed which company should be allocated which projects.

52. According to the CW, the conspirators continued to share bid information with each other on the projects they had allocated amongst themselves immediately before their bids were submitted to the State of Wisconsin or the other bidding authorities. They did this by means of telephone calls, including Nextel direct connect calls. During these calls, the conspirators discussed each company's bid numbers for various significant line items and for the total bid and agreed to manipulate their bids so as to be the designated low bidder or the designated high bidder on each of the allocated projects.

53. According to the CW, the time and place for the ride-around meetings among the conspirators were arranged by means of telephone calls among the conspirators. During those calls the conspirators spoke in code to disguise their real purposes. Instead of talking about upcoming project lettings, they talked about the upcoming “convention” and discussed the need to get a “sub-committee” together. Consensual tape recordings confirm the use of this code.

G. Recorded calls by the CW.

54. In addition to providing historical information, from September 2003 until the present, the CW, while working under my direction and control, has engaged in active cooperation with respect to my investigation of the bid rigging conspiracy and wire fraud scheme.

55. For example, between October 6, 2003, and the present, the CW has placed over a dozen consensually recorded calls to JAMES J. MAPLES of VINTON CONSTRUCTION COMPANY and E.J. STREU and JOHN STREU of STREU CONSTRUCTION COMPANY. During these calls, the participants discussed the need to meet to divide up upcoming construction projects. In addition, in these calls, JAMES J. MAPLES, E.J. STREU, JOHN STREU, and the CW discuss past efforts to rig bids and defraud the State of Wisconsin.

56. In the consensually recorded telephone conversation on October 6, 2003, the CW and JOHN STREU began talking about the need to get together in advance of the upcoming State of Wisconsin highway construction project lettings:

CW:	Looks like the letting schedule is kind of skinny until January.
JOHN STREU:	Yeah, you know, I didn't really see anything coming in November.
CW:	Yeah, November and December are kind of skinny, but January looks pretty good.
JOHN STREU:	OK, Well, we'll just have to sit down and chat once and see what's

what.

CW: I think once the uh . . .once the uh. . .you know. . . they make up their mind what the fuck they're [the State of Wisconsin] going to do with what. Because you never know if they're going to pull or push, you know what I mean. . .

JOHN STREU: Right, right. We'll just have to see how that all goes.

57. In an October 31, 2003 consensually recorded telephone conversation, the CW and E.J. STREU talked about getting together in advance of the upcoming January 2004 State of Wisconsin highway construction project letting:

CW: . . . I talked to JOHN [STREU]. I see they [the State of Wisconsin letting authority] got the hundred million dollars back. But it's—Christ All Mighty—as far as planning for the convention, uhm, doesn't look like there's much, uhm, until January.

E.J. STREU: Yeah, I would say, uhm, you're probably right, there. . . that I don't see much going on. Uhm. Then it's going to be a matter of whether or not we're going to have any kind of meeting of the minds or not.

CW: Yeah.

E.J. STREU: I mean, I suppose anytime we can have a little sit down and try to do some planning for the convention, but uhm, whether or not it's actually going to do any good or not, I guess time will tell.

CW: We run into this every year but I--with the convention—but I think that, I think if we get together towards the end of December and, when things are more firmed up as far as the convention, and Reed and Kevin and Clint. I think that tends to catch people's attention more.

E.J. STREU: Yeah, and it's uh, like I said, we're, uh, we're willing to listen, but it's going to be. . .uhm. . .we can't have the things going on that went on this past year, that just. . . and you weren't involved in even some of them. But, uh, as soon as we get the deal we want to put together, a subcommittee that—to look at it—we probably should do that.

CW: I think, and I think their position normally, as far as, uh, Clint, his position normally is, is, they want to wait and see. So, uh, I think, I think, like I said, I think if we get a subcommittee together like, uh, right before

Christmas, I think that would be the way to do it.

E.J. STREU: Yep. I think you're 100% right. . . .

58. According to the CW, the use of the names "Kevin," "Clint," "Reed," and "Denny," as well as the talk of "conventions" and "subcommittees," is part of the code developed among the conspirators for use during telephone conversations to refer to one another and to set up meetings. This code is used in the event that anyone is listening to their conversations and is designed to cover up the real intent of the conspirators to set up meetings to further the purposes of the conspiracy. According to the CW, the first names listed above are the names of board members and employees of the Wisconsin Concrete Pavement Association.

59. In a December 10, 2003 consensually monitored telephone conversation, the CW and JAMES J. MAPLES talked about setting up a meeting during the week of the 15th or the 22nd of December:

JAMES MAPLES: Uh, your comments about we should get together a little bit and have a conference?

CW: Yeah.

* * *

JAMES MAPLES: We can have a meeting. I don't know what there is to be offering up. I think that somebody else is going to have to carry the ball, but (unintelligible) suggestions. And I know that puts you in a funny spot, but maybe they want to come up with some suggestions . . .

60. During a December 19, 2003, consensually monitored telephone conversation, JAMES J. MAPLES talked to the CW about a private construction job that had been the subject of an allocation agreement between VINTON CONSTRUCTION COMPANY and STREU CONSTRUCTION COMPANY:

JAMES J. MAPLES: What I called about was a couple of things. One, to say I feel a little bad that you got dragged into the middle of a Streu Vinton argument. I had, I had mentioned a little about it to you, but not into the depth .. I thought I ought to explain that thing.

* * * *

JAMES J. MAPLES: Well, there was a big building going up in Two Rivers and we were going to bid it and then they called and asked if we wouldn't and I said, OK, I won't bid on the site work. I won't touch it. But on the digging for the footings and digging the hole, I am going to bid on it. I want you to know that ahead of time. They said OK. Then we had a meeting one day and E.J. [Streu] said, uh . . he launched into a tirade and said that I was a liar and that I bid it, and I didn't, and I said that's not true. And that's been festering all summer.

H. Monitored & recorded meetings between the conspirators.

61. On December 18, 2003, the CW, at my direction, met with JAMES J. MAPLES and MICHAEL J. MAPLES of VINTON CONSTRUCTION COMPANY and JOHN STREU of STREU CONSTRUCTION COMPANY. This meeting took place in the parking lot of a Holiday Inn in Fond du Lac, Wisconsin. With the consent of the CW, agents monitored and recorded this meeting. At this meeting, the participants discussed upcoming projects to be let by WisDOT and referred to their history of rigging bids over the course of the past five or more years. At the end of the meeting, the conspirators did not reach any agreements on specific projects to be let by WisDOT in January 2004. However, they discussed the need to meet again in advance of the January 13, 2004 letting date. The conspirators decided that any such meeting should occur after E.J. STREU returned from Arizona.

62. Before JAMES J. MAPLES and MICHAEL J. MAPLES arrived at the December 18, 2003 meeting, the CW and JOHN STREU talked together for a few minutes. During this

conversation JOHN STREU confirmed that he kept documents reflecting the division of highway projects among the conspirators.

CW: . . . I got all the city stuff there, too.

JOHN STREU: What? Is this all the stuff Vinton wants?

CW: I don't know. I just put some guesses on there. I always do that.

JOHN STREU: I know

CW: You gotta half assed role play before ya. . .

JOHN STREU: So do we. Can I look at this.

CW: Yeah, go ahead. Do you have one? Do you have a copy of the program?

JOHN STREU: Yeah.

CW: Why don't you go grab it and put that stuff down, and then you'll have it--then you'll be ahead of the game.

JOHN STREU: I know what I want, I want fucking everything.

CW: Yeah, you asshole.

JOHN STREU: Yeah, just like you do.

CW: Yeah.

JOHN STREU: I always did that. I always wrote a list. I said.

CW: You always did, yeah.

JOHN STREU: I always said this is for [the CW's employer], this is for us, and this is for Vinton. What the fuck don't you understand?

63. During the course of the December 18, 2003, meeting among the CW, JOHN STREU, JAMES J. MAPLES and MICHAEL J. MAPLES, the conspirators confirm their interest in continuing to rig bids and discuss whether to attempt to allocate jobs on a letting by letting basis

or for the 2004 bidding year as a whole. JAMES J. MAPLES says: “We will listen. Because it was better when we had it going. There’s no doubt about it. But, how do you satisfy it? How do you get something that anybody can feel secure about at all?” He goes on to ask: “What do you guys suggest for now?” He later says: “I don’t want to sound real negative, but I can’t, I can’t see my way clear on anything here. I wish there was a magic formula. . . . If you guys can give us something else to grab onto, boy we’ll grab onto it.” MICHAEL J. MAPLES goes on to say, “Certainly, we haven’t been difficult to deal with in the past, not whatsoever.” Later, MICHAEL J. MAPLES says, “I don’t think it’s going to go any further today. Let us think. You guys think. I don’t know what you can propose here.”

64. After JAMES J. MAPLES and MICHAEL J. MAPLES drove off, JOHN STREU and the CW continued to talk. During that discussion, JOHN STREU says, “We’ll do whatever we can to keep the communication open between you and us.” Later, the CW says: “This arrangement, the last 5 or 6 years has worked out fine for all of us. Some years it doesn’t work out as well as others, but, do you know what—god damn it—that’s gonna happen. . . . they forget about the good, they remember the bad.” JOHN STREU continues, “and if we only remembered the bad, we wouldn’t be talking.”

I. Additional Information

65. In an October 7, 2003, consensually recorded telephone conversation between the CW and JAMES J. MAPLES, MAPLES revealed that he also keeps business records at his home.

CW: When you called me about, uh, Joe Matchey that time, what, uh ..where was he, Jim, in relation to you? I--didn’t--never saw those. I haven’t been to Racine for over a month. I’m going there for the first time this Thursday. So, I never saw those bid tabs.

JAMES MAPLES: Uh, I really forgot, ..., and I, uh, got that at home so I can’t look it

up. But he was cheap. He was twenty some dollars.

CW. A square yard?

JAMES MAPLES: Yeah.

66. In a December 19, 2003, consensually recorded telephone conversation between the CW and JAMES J. MAPLES, at home, the CW and Maples discussed whether to send documents to Maples' home or office for his review:

JAMES MAPLES: I got one more quick question for you. You guys turned in a request for extra saw joints, you know, caused by manholes and inlets and what have you, and uh, Streu did too. Do you know what number you used per foot for that? So we're all kind of on the same basis?

CW: I will send you my file.

JAMES MAPLES: OK

* * * *

JAMES MAPLES: All right, will you send that to me, please.

CW: Yes, I will. Where do you want me to send it? To your office, or at home?

JAMES MAPLES: You gonna fax it or mail it?

CW: I'll probably overnight it. . . . I'm going have to do it this afternoon or first thing tomorrow morning.

JAMES MAPLES: Send it to the office.

CW: All right, I'll do that.

J. Discussions regarding January 13, 2004 letting.

67. On January 8, 2004, the CW, at my direction, met with JAMES J. MAPLES and MICHAEL J. MAPLES of VINTON CONSTRUCTION COMPANY and JOHN STREU and

E.J. STREU of STREU CONSTRUCTION COMPANY in the parking lot of the McDonald's Restaurant in Sheboygan. There, the conspirators all entered the vehicle in which JAMES J. MAPLES and MICHAEL J. MAPLES of VINTON CONSTRUCTION COMPANY had arrived. The subsequent discussion among the conspirators took place while the conspirators drove around in the vehicle. With the consent of the CW, agents monitored and recorded this meeting.

68. At this meeting, the participants once again discussed upcoming projects to be let by WisDOT, particularly projects to be let at the January 13, 2004 WisDOT letting, and referred to their history of rigging bids. Specific projects to be let on January 13, 2004, that were discussed by the conspirators include the following: Interstate Highway 39/U.S. Highway 51 in Columbia County (Project 1); U.S. Highway 151 in Fond du Lac County (Project 14); State Highway 42 in the City of Algoma, Kewaunee County (Project 25); and Custer Street in the City of Manitowoc, Manitowoc County (Project 28).

69. E.J. STREU who had not been present at the meeting held on December 18, 2003 (see PARAGRAPHS 61 - 64) confirmed his interest in continuing the bid rigging agreement:

E.J. STREU: I would like to see things, uh, stay together as far as trying to work things out if we can. . .

* * * *

E.J. STREU: I'm not trying to end the relationship or the workability between the two companies, I'm really not.

* * * *

E.J. STREU: We want to make this work too. And if . . . That's what it's all about.

70. The conspirators were unable to finalize an agreement during their in-person meeting on January 8, 2004. They did, however, decide to continue talking among themselves in order to

reach an agreement:

JAMES J. MAPLES: Let's just you and I talk and we'll make a commitment that we call them back by 2 o'clock today or by 4 o'clock today or something. I think we should talk one more time.

CW: You guys?

JAMES J. MAPLES: No, no, no, no. Me and Mike [MAPLES].

71. Later on January 8, 2004, the CW returned a call from JAMES J. MAPLES. During that consensually recorded telephone conversation between the CW and JAMES J. MAPLES, with both talking in code so as to cover up the real meaning of the conversations, MAPLES confirmed that the conspirators had reached an agreement with respect to bids to be let by the State of Wisconsin on January 13, 2004:

JAMES J. MAPLES: We're not too interested in where Otto is playing god down there and we're going to concentrate more on the one up north of us and the one right here in our town.

CW: OK.

JAMES J. MAPLES: And a couple of other considerations. Appleton and Chilton's part of the whole conversation. But, uh . . . uh, I guess I would say to you that they reluctantly considered it.

CW: OK . . . So, as far as, uh, 39 - the 39 year old guy [I-39] and uh, uh . . . the one hundred fifty one thousand ton pile [U.S. Highway 151], those . . . I'm going to talk to E.J. and John about . . .

JAMES J. MAPLES: Yeah.

CW: And then, uh, the balance I should be talking to uh, Bill . . .

JAMES J. MAPLES: Uhm. I didn't get the last part, [CW] maybe I'm a little tired but I didn't get that.

CW: Uhm, the balance of it I would be talking to your, uh . . .

JAMES J. MAPLES: Yes.

CW: Director of public works.

JAMES J. MAPLES: Yes, yes.

CW: As far as this presentation.

JAMES J. MAPLES: Yes.

CW: Got you.

Based on my review of the letting schedule published by WisDOT and information provided by the CW, I believe MAPLES' references to Appleton and Chilton in the above conversation relate to projects which are part of the April 2004 State of Wisconsin letting.

72. The day after the above confirming call from JAMES J. MAPLES, the CW returned a call from JOHN STREU. Specifically, on January 9, 2004, in a consensually recorded telephone conversation between the CW and JOHN STREU, with both talking in code so as to cover up the real meaning of the conversations, STREU confirmed the agreement that had been reached with respect to bids to be let by the State of Wisconsin on January 13, 2004:

JOHN STREU: Did that commander next door to me call you at all?

CW: Yeah, yeah, uh, he did . . . he talked about , uhm, Reed and Clint, as far as yourself, on 39, and over where Otto's king of the hill.

JOHN STREU: Yep.

CW: And then, uhm, uh, and Bill . . .

JOHN STREU: Yeah, yeah.

CW: And uh, the town of Algoma.

JOHN STREU: OK, OK.

CW: Is that correct?

JOHN STREU: Yeah, yeah. That's fine. So, you're kind of on board with all that?

CW: 10-4.

In the same conversation, STREU indicated he would be willing to share information with respect to the “Big City,” a reference which the CW has explained relates to upcoming projects in Milwaukee County involving the Marquette Interchange and Canal Street. I am aware that these projects are set to be let by WisDOT later in 2004.

73. During the January 9, 2004 call, JOHN STREU also told the CW that there had been a subsequent conversation among representatives of VINTON CONSTRUCTION COMPANY and STREU CONSTRUCTION COMPANY after the in-person meeting among the CW, JOHN STREU, E.J. STREU, JAMES J. MAPLES AND MICHAEL J. MAPLES on January 8, 2004.

JOHN STREU: They rung us up yesterday and then we uh, we met with them late yesterday afternoon.

CW: OK.

JOHN STREU: So we should be good.

During this conversation, STREU also indicated that to make sure that the conspirators had one another’s Nextel direct connect codes in advance of the January 13, 2004 letting, STREU planned to use his phone to contact his conspirators on Monday, January 12, 2004.

74. According to the CW, and based on the recorded conversations described above and my review of the letting schedule, the specific projects allocated between VINTON CONSTRUCTION COMPANY and STREU CONSTRUCTION COMPANY which will be awarded at the January 13, 2004 WisDOT letting are as follows:

Project Number	Description	Designated Contractor
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1	I-39/U.S. Highway 51 - North County Line Road Columbia County	STREU CONSTRUCTION COMPANY
14	U.S. Highway 151 Madison to Fond du Lac Road Fond du Lac County	STREU CONSTRUCTION COMPANY
25	State Highway 42, City of Algoma Kewaunee County	VINTON CONSTRUCTION COMPANY
28	Custer Street, City of Manitowoc Manitowoc County	VINTON CONSTRUCTION COMPANY

V. Evidence to be seized pursuant to the requested search warrants.

75. The facts set forth above establish probable cause to believe that VINTON CONSTRUCTION COMPANY, through its officers JAMES J. MAPLES and MICHAEL J. MAPLES, and STREU CONSTRUCTION COMPANY through its officers JOHN STREU and E.J. STREU have been and continue to engage in a bid rigging conspiracy and wire fraud scheme thereby defrauding the State of Wisconsin and others, in violation of, 15 U.S.C. § 1 (Sherman Act), and 18 U.S.C. § 1343 (Wire Fraud).

76. All the documents requested are business records of VINTON CONSTRUCTION COMPANY and STREU CONSTRUCTION COMPANY. It has been my experience that records of bid rigging are usually kept and maintained at the participants' offices, so that they may be referred to over the course of the conspiracy. Here, the facts set forth above in PARAGRAPHS 65 and 66 establish probable cause to believe that JAMES J. MAPLES also keeps some business records at his home.

77. It has been my experience that records created and kept during the course of a bid rigging

conspiracy and wire fraud scheme include such items as bid files; handwritten notes reflecting the agreed to prices or bids, notes or memoranda of meetings at which the prices were fixed or bids were rigged, notes or memoranda of telephone conversations between or among participants in the conspiracy; names, addresses, and telephone numbers of co-conspirators; and other notes, memoranda, correspondence, reports, other records, and documentation relating to any agreements, meetings, conversations, or other communications or contacts between or among a company participating in the conspiracy and any of its employees and any other conspirators.

78. I am, therefore, requesting that search warrants be issued to search the premises of VINTON CONSTRUCTION COMPANY and STREU CONSTRUCTION COMPANY and the residence of JAMES J. MAPLES. The description of the premises to be searched is found as follows:

VINTON CONSTRUCTION COMPANY - VINTON EXHIBIT A;

STREU CONSTRUCTION COMPANY - STREU EXHIBIT A;

RESIDENCE OF JAMES J. MAPLES - MAPLES' RESIDENCE EXHIBIT A;

and each exhibit is incorporated herein by reference.

79. The description of the property to be seized is found as follows:

VINTON CONSTRUCTION COMPANY - VINTON EXHIBIT B;

STREU CONSTRUCTION COMPANY - STREU EXHIBIT B;

RESIDENCE OF JAMES J. MAPLES - MAPLES' RESIDENCE EXHIBIT B;

and each exhibit is incorporated herein by reference.

80. At the premises of VINTON CONSTRUCTION COMPANY the search will be limited to the offices of JAMES J. MAPLES and MICHAEL J. MAPLES and the areas where their

support personnel (secretaries and receptionists) sit and regularly work. At the premises of STREU CONSTRUCTION COMPANY, the search will be limited to the offices of JOHN STREU and E.J. STREU and the areas where their support personnel (secretaries and receptionists) sit and regularly work. In order to minimize the prospect of the removal and subsequent destruction of any documents called for by the search warrant, the search will include the briefcases or computer laptops or other movable document containers located in the offices which are in the possession of, or readily identifiable as belonging to JAMES J. MAPLES, MICHAEL J. MAPLES, JOHN STREU, or E.J. STREU. At the RESIDENCE OF JAMES J. MAPLES the search will be limited to the areas of the residence, including the attached garage and curtilage, used as an office by JAMES J. MAPLES or where VINTON CONSTRUCTION COMPANY business records are stored or located. At the residence of JAMES J. MAPLES the search of briefcases or computer laptops or other movable document containers will further be limited to those containing VINTON CONSTRUCTION COMPANY business records.

81. It has been my experience generally that records of bid rigging conspiracies and wire fraud schemes may be kept and maintained with computer hardware equipment, including the conspirators' personal and office laptop computers, and software, such as disks, magnetic tapes, programs and computer printouts. Additionally, the investigation here has revealed that beginning by December 2002 bids submitted in connection with WisDOT lettings have been submitted by computer over the internet in electronic format through a service know as the "Bid Express on-line bidding exchange." My review of public bidding records revealed that VINTON CONSTRUCTION COMPANY and STREU CONSTRUCTION COMPANY each (separately) used Bid Express to transmit their bids in electronic format and via interstate wire communication

from computers in their respective offices in the Eastern District of Wisconsin to Florida. Based upon my knowledge, training and experience, I know that searching and seizing information from computers often requires agents to seize most or all electronic storage devices (along with related peripherals) to be searched later by a qualified computer expert in a laboratory or other controlled environment. This is true because of the following:

(a) The volume of evidence. Computer storage devices (like hard disks, diskettes, tapes, laser disks) can store the equivalent of millions of pieces of paper. Additionally, a suspect may try to conceal criminal evidence; he or she might store it in random order with deceptive file names. This may require searching authorities to examine all the stored data to determine which particular files are evidence or instrumentalities of crime. This sorting process can take weeks, depending on the volume of data stored, and it would be impractical and invasive to attempt this kind of data search on-site; and

(b) Technical requirements. Searching computer systems for criminal evidence is a highly technical process requiring expert skill and a properly controlled environment. The vast array of computer hardware and software available requires even computer experts to specialize in some systems and applications, so it is difficult to know before a search which expert is qualified to analyze the system and its data. In any event, however, data search protocols are exacting scientific procedures designed to protect the integrity of the evidence and to recover even "hidden," erased, compressed, password-protected, or encrypted files. Because computer evidence is vulnerable to inadvertent or intentional modification or destruction, (both from external sources or from destructive code imbedded in the system as a "booby trap"), a controlled environment may be necessary to complete an accurate analysis. Further, such searches often require the seizure of most or all of a computer system's input/output peripheral devices, related software, documentation, and data security devices (including passwords) so that a qualified computer expert can accurately retrieve the system's data in a laboratory or other controlled environment. This is also because data and information stored in an electronic format may be found not only on the hard disk drive of a computer, but on other computer equipment and related peripherals, including back-up tapes, floppy disks, and other devices capable of storing information in an electronic format.

82. In light of the concerns set forth in the preceding paragraph, although agents first will assess whether imaging any computer systems on site would be practical, I am requesting the

Court's permission to seize the computer hardware (and associated peripherals), that are believed to contain some or all of the evidence described in the warrant, and to conduct an off-site search of the hardware for the evidence described, if, upon arriving at the scene, the agents executing the search conclude that it would be impractical to search the computer hardware on-site for this evidence. Furthermore, even if imaging is successful, data security devices (including passwords) and instruction manuals regarding the operation of the computer system, software, or any related device may need to be seized to aid in the forensic analysis of the evidence.

VI. Conclusion.

83. Based on the above, I have probable cause to believe that VINTON CONSTRUCTION COMPANY, JAMES J. MAPLES, MICHAEL J. MAPLES, STREU CONSTRUCTION COMPANY, E.J. STREU, and JOHN STREU have conspired with each other and others, including an employee of a purported competitor, to rig bids and have defrauded the State of Wisconsin and others, in violation of the Sherman Act, 15 U.S.C. § 1, and 18 U.S.C. § 1343.